

§516.67

(i) Termination of contract for default.

(ii) Nonaward of contract based upon a finding of contractor nonresponsibility. (If this appears to be a valid option, a DFARS 209.406-3 (48 CFR 209.406-3) report must be prepared where contractor nonresponsibility is based on lack of integrity).

(iii) Rescission of contract.

(iv) Revocation of acceptance.

(v) Use of contract warranties.

(vi) Withholding of payments to contractor. In the case of withholding pursuant to DFARS 2032.173, the Chief, PFD, is the Army Remedy Coordinating Official.

(vii) Offset of payments due to contractor from other contracts.

(viii) Revocation of facility security clearances.

(ix) Increased level of quality assurance.

(x) Refusal to accept nonconforming goods.

(xi) Denial of claims submitted by contractors.

(xii) Removal of contract from automated solicitation or payment system.

(2) Administrative.

(i) Change in contracting forms and procedures.

(ii) Removal or reassignment of government personnel.

(iii) Review of contract administration and payment controls.

(iv) Revocation of warrant of contracting officer.

(v) Suspension of contractor.

(vi) Debarment of contractor.

(b) In cases which are pending review or action by DOJ, PFAs should coordinate with the DOJ attorney handling the case prior to initiating any contractual or administrative remedy. In the case of ongoing criminal investigations, this coordination will be accomplished through the appropriate DOD criminal investigation organization.

§516.67 Overseas cases of fraud or corruption.

(a) Commanders of overseas major commands will establish procedures, similar to this regulation and consistent with the DFARS, and regulations and directives of their respective unified commands, for reporting and coordination of available remedies in

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overseas procurement fraud and corruption cases involving foreign firms and individuals. Overseas major commands will also maintain liaison with PFD and provide periodic reports of remedies coordination results.

(b) Overseas suspension and debarment actions are governed by DFARS 209.403 (48 CFR 209.403). The names of all firms and individuals suspended or debarred will be expeditiously forwarded to PFD for inclusion on the List of Parties Excluded From Federal Procurement or NonProcurement Programs.

(c) Overseas cases of fraud or corruption related to the procurement process that involve U.S. firms or U.S. citizens may be referred to PFD for coordination of remedies under this regulation.

§516.68 Program Fraud Civil Remedies Act (PFCRA).

(a) PFCRA was enacted on 21 October 1986 (Public Law 99-509) and implemented by DOD on 30 August 1988 (DOD Directive 5505.5). (See appendix E to this part.)

(b) PFCRA expands the capability of the government to deter and recover losses from false, fictitious or fraudulent claims and statements. It is also applicable to program fraud and provides an administrative remedy in addition to those otherwise available to the Army in procurement fraud or pay and entitlements fraud cases.

(c) As part of the Army implementation, the Secretary of the Army's duties and responsibilities under PFCRA as Authority Head are delegated to the Army General Counsel. The Chief, Intellectual Property Law Division, is the Army's Reviewing Official within the meaning of PFCRA. Army implementation also requires DA to follow the policies and procedures prescribed in enclosure 2 of DOD Directive 5505.5. (See appendix E to this part.)

(d) The DOD Inspector General (IG) is the Investigating Official within DOD. The duties of this position will be performed by the Assistant IG For Investigations. This individual is vested with the authority to investigate all allegations of liability under PFCRA. That authority includes the power to